

BEFORE THE
FEDERAL ELECTION COMMISSION

Alissa Ko
President, California Young Democrats
915 L Street #C109
Sacramento, CA 95814

Complainant,

v.

Taxpayer Network
5701 Lonetree Blvd., Suite 301
Rocklin, CA 95765

Respondent.

MUR #

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COUNSEL

COMPLAINT

Complainant files this complaint with the Federal Election Commission (the "FEC" or "Commission") under 2 U.S.C. § 437g(a)(1) (2010) against The Taxpayer Network for numerous violations of the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act").

The Taxpayer Network is currently running television advertisements in California that clearly identify Senator Barbara Boxer. As such, these advertisements constitute "electioneering communications" under the Act and the Taxpayer Network is required to include specific disclaimers on the advertisements and report its communications to the FEC within 24 hours. It has failed to comply with these requirements, depriving the voters of California with critical information about who is funding these advertisements only days before the general election.

A. Factual Background

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The Taxpayer Network is a non-profit corporation organized under IRC § 501(c)(4). It is currently running two advertisements¹ across California which are about, and contain a clear reference to, Senator Barbara Boxer, a candidate for re-election on November 2, 2010.

The following language appears on screen at the conclusion of both of Taxpayer Network's advertisements: "PAID FOR BY TAXPAYER NETWORK." The advertisements do not contain any spoken or written message regarding who is responsible for the content of the ads.

As of the date of this complaint, the Taxpayer Network has not filed any reports with the FEC regarding these communications.

B. Legal Analysis

1. Electioneering Communications

An "electioneering communication" is defined as any broadcast, cable, or satellite communication that:

- i. Refers to a clearly identified candidate for Federal office;
- ii. Is publicly distributed within 60 days before a general election for the office sought by the candidate; and
- iii. Is targeted to the relevant electorate.

11 C.F.R. § 100.29(a).

The Taxpayer Network's television commercials clearly satisfy all of these requirements. First, the advertisements both name Senator Boxer and show her photograph. See *id.* § 100.29(b)(2). Second, the advertisements were shown on

¹ The television advertisements may be viewed on Taxpayer Network's website (<http://www.taxpayernetwork.com/tv-ads>) as well as here, <http://www.youtube.com/watch?v=Rat2SZIAic4> and here, <http://www.youtube.com/watch?v=Pde4lixbTCg>.

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television within a week of when Californians will have the opportunity to vote for Senator Boxer at the general election. And third, the advertisements were shown across the state of California. See *id.* §§ 100.29(b)(3), (5).

2. Disclaimer Requirements

Under the Commission's regulations, "electioneering communications" are required to contain particular disclaimers. See 11 C.F.R. § 110.11(a)(4).

For communications that are not paid for or authorized by a candidate, the disclaimer must include the following: (i) the full name of the entity that paid for the communication; (ii) either the permanent street address, telephone number, or web address of the entity that paid for the communication; and (iii) a statement that the communication is not authorized by any candidate or candidate's committee. 11 C.F.R. § 110.11(b)(3). Advertisements that appear on television are subject to further requirements. Such advertisements must include both an audio and printed statement that says "XXX is responsible for the content of this advertising." The written statement must accompany an unobscured full-screen view of a representative of the sponsor or other person in voice over, appear in letters equal to or greater than four percent of the vertical picture height, be visible for at least four seconds, and be clearly visible. 11 C.F.R. § 110.11(c)(4).

Taxpayer Network's advertisements fail to comply with these disclaimer requirements. The disclaimers do not include an address, telephone number, or web site for Taxpayer Network; they do not state whether or not the communication was authorized by a candidate; and they do not include a statement that "Taxpayer Network is responsible for the content of this advertising," either in voice-over or in writing.

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Taxpayer Network has clearly violated the Commission's disclaimer requirements as they apply to electioneering communications.

3. Reporting Obligations

Any person that has made an "electioneering communication" in excess of \$10,000 is generally required to report the communication to the FEC by 11:59 p.m. Eastern time on the day after it first airs. 11 C.F.R. § 104.20. Furthermore, a new report must be filed with the Commission each time an entity spends another \$10,000 in the aggregate. Electioneering reports of corporations are required to include such information as: (i) the identify of the person that paid for the communication; (ii) who was exercising control over the communication; and (iii) the name of every donor who contributed at least \$1,000 for the purpose of furthering electioneering communications. *Id.* § 104.20(c)(9).

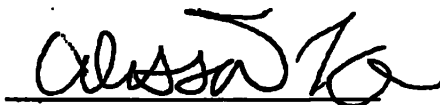
Although its ads have been running for some time, Taxpayer Network has failed to file any "electioneering communication" reports with the FEC whatsoever. Accordingly, the Taxpayer Network has clearly violated the reporting requirements of the Act, depriving the public of critical information concerning its activities. With this blatant disregard for the law, it impossible for the voters to tell who is really behind the Taxpayer Network attacks.

C. REQUESTED ACTION

Taxpayer Network has violated the Act and the FEC's regulations by running "electioneering communications" attacking Senator Boxer without including the proper disclaimers on the ads or reporting any of its activities to the FEC. We respectfully

request that the Commission investigate these violations; enjoin the Taxpayer Network from further violations of the Act; and assign the maximum fines permitted by law.

Sincerely,



Alissa Ko

President, California Young Democrats

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SUBSCRIBED AND SWORN to before me this 27 day of October, 2010.


Notary Public

My Commission Expires:

02/24/2012

